

Atty. Dkt. No. 074066-0108

RECEIVED

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 23 2003

Applicant: 21st Century Medicine  
Title: Hypertonic Reduction of Chilling Injury  
Appl. No.: 09/916,032  
Filing Date: 07/26/2001  
Examiner: Deborah K. Ware  
Art Unit: 1651

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 703-308-6916, Alexandria, Virginia on the date below.  <u>Line Gauthier</u> (Printed Name)  <u><i>Line Gauthier</i></u> (Signature)  <u>July 21, 2003</u> (Date of Deposit)
---

CH CENTER 1600/296

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181(a)

Mail Stop Petition  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

FAX RECEIVED

JUL 21 2003

Sir:

PETITIONS OFFICE

The Applicant received a Notice of Abandonment mailed May 20, 2003 for the above-identified application because a reply was never made to the Office Action mailed by the Office on September 26, 2002. However, the Office Action was never received by Applicant's attorney of record.

The Office Action was apparently sent to the previous address of record, even though a Power of Attorney (copy attached as Appendix A) was mailed to the PTO well before dispatch of the Office Action by the PTO, i.e., on October 11, 2001, and directed that correspondence be sent to the present address of record.

The present address of record is repeated below:

Foley & Lardner  
One Maritime Plaza, Sixth Floor  
San Francisco, CA 94111-3404  
Telephone: 415-438-6454  
Facsimile: 415-434-4507

Atty. Dkt. No. 074066-0105

Under the reasoning of *Delgar*, the Office may consider a petition to withdraw the holding of abandonment and, if adequately supported, should grant the petition and remail the Office Action. *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971). MPEP 711.03(c)(II).

Also attached are a copy of the Notice of Abandonment, showing it was mailed to an incorrect address (Appendix B), and a copy of the relevant docket record of Applicant's attorney, illustrating that the Office Action mailed September 26, 2002 was not recorded on the docket record (Appendix C).

In view of the above evidence, Applicant hereby petitions for withdrawal of the holding of abandonment and requests the Office Action be remailed to the correct address of record and that Applicant given an opportunity to respond.

No fee is believed due with this petition per 37 CFR 181 (d), but the Commissioner is hereby authorized to charge any fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Date July 21, 2003

Respectfully submitted,

FOLEY & LARDNER  
Customer Number: 30542

30542

PATENT TRADEMARK OFFICE

Telephone: (858) 847-6700  
Facsimile: (858) 792-6773

By

Richard San Pietro  
for Stephen E. Reiter  
Attorney for Applicant  
Registration No. 45,071